

DIRECTIVE NUMBER 400-05-13

DATE: July 1, 2013

TO: Department of Labor Special Investigators

FROM: Lana Gordon, Secretary of Labor

SUBJECT: Stalking Policy

I. Purpose

Law enforcement staff members of the Kansas Department of Labor (KDOL) are not normally first responders to public calls for public assistance. However, KDOL staff may find themselves assisting local law enforcement officers or agencies responding to or investigating a stalking case. Exceptional circumstances may require a KDOL officer to conduct themselves as a first responder to a domestic violence incident. The following policies provide guidance for KDOL staff in both instances.

It is the policy of KDOL to emphasize the KDOL's commitment to effectively and efficiently provide assistance to law enforcement agencies requesting aid in responding to allegations of stalking, identifying specific acts constituting offenses of stalking under applicable law, ensuring the arrest of individuals with sufficient probable cause and appropriately disseminating information to victims of stalking offenses.

II. Policy Statement

The KDOL shall fully comply with all applicable laws governing the crime of stalking including enforcement, investigation, arrest, training, and victim support.

All personnel shall comply with all applicable provisions of this policy.

All personnel are encouraged to attend training regarding the identification of stalking offenses, communications with victims of stalking and effective enforcement of stalking laws.

A Kansas Standard Offense Report (KSOR) shall be completed on all incidents where a reporting party or victim alleges another person violated the stalking laws; a copy of the KSOR shall be sent to the KBI.

III. Scope

This policy applies to all KDOL special investigators.

IV. Definitions

For the purposes of this policy, the following terms are defined pursuant to K.S.A. 2012 Supp. 21-5427.

(a) **Stalking** is:

- (1) Recklessly engaging in a course of conduct targeted at a specific person which would cause a reasonable person in the circumstances of the targeted person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in such fear;
- (2) engaging in a course of conduct targeted at a specific person with knowledge that the course of conduct will place the targeted person in fear for such person's safety or the safety of a member of such person's immediate family; or
- (3) after being served with, or otherwise provided notice of, any protective order included in K.S.A. 21-3843, prior to its repeal or K.S.A. 21-5924, and amendments thereto, that prohibits contact with a targeted person, recklessly engaging in at least one act listed in subsection (f)(1) that violates the provisions of the order and would cause a reasonable person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in such fear.

For the purposes of this section, a person served with a protective order as defined by K.S.A. 21-3843, prior to its repeal or K.S.A. 21-5924, and amendments thereto, or a person who engaged in acts which would constitute stalking, after having been advised by a law enforcement officer, that such person's actions were in violation of this section, shall be presumed to have acted knowingly as to any like future act targeted at the specific person or persons named in the order or as advised by the officer.

(b) **“Course of conduct”** means two or more acts over a period of time, however short, which evidence a continuity of purpose. A course of conduct shall not include constitutionally protected activity nor conduct that was necessary to accomplish a legitimate purpose independent of making contact with the targeted person. A course of conduct shall include, but not be limited to, any of the following acts or a combination thereof:

- (A) Threatening the safety of the targeted person or a member of such person's immediate family;
- (B) following, approaching or confronting the targeted person or a member of such person's immediate family;

- (C) appearing in close proximity to, or entering the targeted person's residence, place of employment, school or other place where such person can be found, or the residence, place of employment or school of a member of such person's immediate family;
- (D) causing damage to the targeted person's residence or property or that of a member of such person's immediate family;
- (E) placing an object on the targeted person's property or the property of a member of such person's immediate family, either directly or through a third person;
- (F) causing injury to the targeted person's pet or a pet belonging to a member of such person's immediate family;
- (G) any act of communication;

(c) “**communication**” means to impart a message by any method of transmission, including, but not limited to: Telephoning, personally delivering, sending or having delivered, any information or material by written or printed note or letter, package, mail, courier service or electronic transmission, including electronic transmissions generated or communicated via a computer;

(d) “**computer**” means a programmable, electronic device capable of accepting and processing data;

(e) “**conviction**” includes being convicted of a violation of K.S.A. 21-3438, prior to its repeal, this section or a law of another state which prohibits the acts that this section prohibits; and

(f) “**immediate family**” means father, mother, stepparent, child, stepchild, sibling, spouse or grandparent of the targeted person; any person residing in the household of the targeted person; or any person involved in an intimate relationship with the targeted person.

V. Procedures

Responsibilities of employees:

Upon receipt of a call for assistance regarding conduct that may reasonably be interpreted as an allegation of the crime of stalking, the employee shall:

Make a reasonable and prudent effort to contact the local law enforcement agency with jurisdiction to respond to the request for law enforcement.

Relay all known relevant information to the local law enforcement agency concerning the alleged activities.

If information has been provided to the employee concerning the existence of a protection order alleged to have been violated, the employee shall make reasonable and prudent efforts to ascertain the status of such protection order and the conditions imposed by the court pursuant to such order and shall relay such information to the local law enforcement agency responding to the call.

Responsibilities of responding officers when responding to a report of alleged stalking activity:

The responding officer shall attempt to gather all relevant information and evidence necessary to determine whether probable cause exists to believe a crime of stalking has occurred.

The responding officer shall include in his or her investigative report any past stalking incidents alleged by the victim to have been committed by the suspect and the jurisdiction in which the alleged stalking occurred and request copies of reports from other agencies when applicable.

The responding officer shall provide victims a copy of the document in Attachment A listing information state law requires them to receive.

When contact is made with a suspect, the responding officer shall provide warnings in regards to future stalking conduct.

Stalking Suspect at Scene:

If the stalking suspect is located at the scene of an alleged crime, the responding officer shall consider the safety of the alleged victim, the suspect, the agent and the public at-large when deciding whether to detain and question the suspect at the scene.

Stalking Suspect not at Scene

If the stalking suspect is not located at the scene of an alleged crime, the responding officer shall make all reasonable and prudent efforts to locate and question the suspect in relation to the alleged crime.

If the allegation includes a violation of a restraining order, protection order, or other court order the responding officer shall make all reasonable and prudent efforts to ascertain whether a valid order is in place, whether the order has been lawfully served upon the suspect, what the terms of the order require and whether the information and evidence in the case will provide probable cause to believe a violation of such order has occurred. If an order exists but has not been served, every reasonable attempt to serve the order or inform the person of the existence and restrictions included in the order shall be made. The details of those actions will be included in the responding officer's investigative report.

Arrest

When the suspect(s) in an alleged crime of stalking can be located, an arrest shall be made when the agent has probable cause to believe a crime related to stalking is being committed or has been committed and has probable cause to believe the suspect(s) committed the crime.

Procedures for Misdemeanor and Felony Cases

(1) Responding officers making an arrest must determine which of the three subsections of K.S.A. 21-5427(a) was violated and make reasonable efforts to determine if the suspect has prior stalking convictions in order to determine if the suspect should be booked for a misdemeanor or felony.

(2) In addition to the foregoing policy and procedures, responding officers shall follow all other pertinent statutes and policies and procedures of the agency regarding the handling of misdemeanor and felony cases.

Lana Gordon, Secretary of Labor
Signature on file

Rescissions: None	Expiration Date: Continuous
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